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Opinion No. 05-101

Cellular Telephone Use Under the School Security Act of 1981

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**QUESTIONS**

1. For the purpose of enforcing Tenn. Code Ann. § 49-6-4214, may a “cellular telephone” be considered an “electronic pager” since a cellular telephone performs the same and additional functions to those functions normally performed by electronic pagers?
2. May the terms “cellular telephones” and “electronic pagers” be used interchangeably in view of the intent of Tenn. Code Ann. § 49-6-4203(a) as part of the “School Security Act (Act)?”

**OPINIONS**

1. No. The statute specifically limits pager use and does not mention cellular phones.
2. No. In ordinary usage, the two terms are not used interchangeably. The term “pager” is plain and unambiguous, and the Act does not prohibit cellular phone use.

**ANALYSIS**

The purposes of the School Security Act of 1981, Tenn. Code Ann. §§ 49-6-4201, *et seq.*, (the Act), are stated in Tenn. Code Ann. § 49-6-4203. The General Assembly passed the Act to “secure a safe environment in which education of the students of Tennessee may occur.” Tenn. Code Ann. § 49-6-4203(a). One specific purpose of the Act is to remove “dangerous weapons, drug paraphernalia and drugs from school property” to lessen hazards to students. The definition of drug paraphernalia includes electronic pagers if used or intended for uses proscribed by the Act. Tenn. Code Ann. § 49-6-4202(3). Further, possession of a pager by a student, without the principal’s permission, is *prima facie* evidence of its intended use in violation of the Act. Tenn. Code Ann. §49-6-4214. The Act does not mention cellular telephones. The Act does not define the terms “pager” and “cellular phone.”

The Act’s language is plain and unambiguous. The Act specifically uses the word “pager” in two separate provisions. It neither mentions “cellular telephone” nor generally describes the functions of the two items in a way that one term could be substituted for the other. When interpreting statutes, courts look to the plain meaning of the statutory language and give statutory

terms their commonly understood meaning. *See, e.g., Tomas v. United States*, 189 F.2d 494, 497 (6th Cir. 1951); *Conley v. Tennessee*, 141 S.W.3d 591, 595 (Tenn. 2004). Further, when the legislature uses a specific term and excludes another, the legislature is presumed to have meant only the specific term. *See, e.g., Carver v. Citizen Utilities Co.*, 954 S.W.2d 34, 35 (Tenn. 1997).

While both a pager and a cellular phone are electronic communication devices, each performs distinct functions. Moreover, in ordinary usage, the two terms are not used interchangeably. Accordingly, we conclude that they are not interchangeable for the purposes of the School Security Act of 1981. Local school boards, however, do have the authority and the duty to formulate a code of acceptable behavior and discipline to apply to the students in schools in their districts. Tenn. Code Ann. § 49-6-4012(a) (Student and Employee Safe Environment Act of 1996). The authority is broad and could include rules regarding cellular telephone use in school. Tenn. Code Ann. § 49-6-4013.<sup>1</sup>

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<sup>1</sup>Two examples of student codes of conduct that include rules on cellular phone use can be found at <http://www.cmcss.net> (Clarksville-Montgomery County) and <http://www.mnps.org> (Nashville-Davidson County).